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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/771,444	02/05/2004	Ryosaku Fujisato	Q79233	3823
23373	7590	07/23/2008	EXAMINER	
SUGHRUE MION, PLLC			CHAPMAN, GINGER T	
2100 PENNSYLVANIA AVENUE, N.W.				
SUITE 800			ART UNIT	PAPER NUMBER
WASHINGTON, DC 20037			3761	
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			07/23/2008	PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

<b>Office Action Summary</b>	<b>Application No.</b>	<b>Applicant(s)</b>	
	10/771,444	FUJISATO, RYOSAKU	
	<b>Examiner</b>	<b>Art Unit</b>	
	Ginger T. Chapman	3761	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

#### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

1) Responsive to communication(s) filed on 30 April 2008.  
 2a) This action is **FINAL**.                    2b) This action is non-final.  
 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

4) Claim(s) 1-12 is/are pending in the application.  
 4a) Of the above claim(s) 5-12 is/are withdrawn from consideration.  
 5) Claim(s) \_\_\_\_\_ is/are allowed.  
 6) Claim(s) 1-3 is/are rejected.  
 7) Claim(s) 4 is/are objected to.  
 8) Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

9) The specification is objected to by the Examiner.  
 10) The drawing(s) filed on 05 February 2004 is/are: a) accepted or b) objected to by the Examiner.  
 Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
 Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).  
 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
 a) All    b) Some \* c) None of:  
 1. Certified copies of the priority documents have been received.  
 2. Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.  
 3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

1) Notice of References Cited (PTO-892)  
 2) Notice of Draftsperson's Patent Drawing Review (PTO-948)  
 3) Information Disclosure Statement(s) (PTO/SB/08)  
 Paper No(s)/Mail Date \_\_\_\_\_.  
 4) Interview Summary (PTO-413)  
 Paper No(s)/Mail Date \_\_\_\_\_.  
 5) Notice of Informal Patent Application  
 6) Other: \_\_\_\_\_.

## **DETAILED ACTION**

### ***Status of the claims***

1. Claims 1-12 are pending in the application; claims 5-12 are withdrawn from consideration as being drawn to a nonelected invention.

### ***Claim Rejections - 35 USC § 112***

2. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

3. Claim 1 recites the limitation "the circumferential wall" in line 4. There is insufficient antecedent basis for this limitation in the claim.

### ***Claim Rejections - 35 USC § 102***

4. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

5. Claims 1-2 are rejected under 35 U.S.C. 102(b) as being anticipated by Kostrov et al (US 6,706,006 B2).

6. With respect to claim 1, as best depicted in Figures 2-3, Kostrov discloses a suction-cleansing device (fig. 2) comprising a vessel body (5) having a hollow portion (7) whose profile is converged from its rear part side to its front part side, the dictionary definition of converged is "bent", thus the device of Kostrov meets the claim language as

presently written because, as best depicted in Figure 1 at (5), the device comprises an angle between two parts of the element (5); an air/liquid jetting port (15) secured at the front end portion of the vessel body; a liquid-introducing pipe (3) connected (8) to the circumferential wall of the rear part side of the vessel body in the tangential direction (fig. 2a; c. 3, l. 26 and ll. 50-62); an air/liquid jet guiding portion that is disposed at the outer circumferential portion of the air/liquid jetting port (15) and is widened to open from port toward the jetting direction (9: figs. 2-4); and a flow-out portion composed of notches (9: figs. 2-4) in the front end portion or the air/liquid jet guiding portion.

7. The examiner notes that it is well-settled that inventor may be own lexicographer. MPEP § 2111.02. Therefore, although the instant claims are directed to "a suction-cleansing device" while the Kostov device is directed to a "hydro-suction vibration bio-stimulator", the examiner notes that the prior art device satisfies the claimed structural limitations and performs the substantially identical function in the substantially identical manner as described in the following paragraph for clarity:

8. As best depicted in Figures 2 and 3, the air/liquid mixture is swirled in the hollow portion such that the rotation motion of the liquid causes a decrease of pressure and an increase and thus creates cavitation bubbles of air on an air axis formed in the hollow portion thereby causing a suction effect on the users skin which is then sucked into the air/liquid jetting port thereby massaging the skin. The suction of the skin into the jetting port causes the momentary closing of the port, and that, in turn, leads to an increase of pressure inside the hollow portion due to the fluid flow through liquid-introducing pipe temporarily eliminating the suction force. This causes the skin to return to its original un-

suctioned state for a moment, then again undergoes the next suction cycle as the process repeats itself.

9. The prior art teaches that the auto-oscillation process of the suction cycles has a frequency, depending on the decrease of pressure inside the hollow portion, which creates a pulsing or vibration effect. This effect is referred to in the instant Specification as a “breathing effect” (c. 3, l. 50 to c. 4, l. 30).

10. The examiner further notes that prior art structure (14) is identified as an “outlet” for creating a suction force in the vicinity of outlet (15) (c. 4, ll. 35-40). However, it is the examiners position that, absent a showing to the contrary, the port (14) allows air to flow both in and out of the port as the pressure inside the hollow portion is increased and decreased. Absent evidence to the contrary, Figure 3 appears to depict the above-noted phase of the cycle wherein the pressure inside the hollow is decreased and the skin is suctioned into the jetting port. The examiner position is based on the structure is disclosed as a hole; a hole (unlike a one-way valve, by way of example) will allow two-way flow in and out of the hollow portion depending on whether the periodic suction force is increased causing air flow into (14) or eliminated (air flow out).

11. With respect to claim 2, as seen in Figure 3, Kostrov teaches an air self-suction port (14).

12. Claim 3 is rejected under 35 U.S.C. 103(a) as being unpatentable over Kostrov in view of Martin (US 6,962,298 B1).

13. With respect to claim 3, Kostrov discloses the claimed invention except for the rotating member. Martin, at c. 2, ll. 13-18, expresses the desire for a suction-cleansing device that can be selected to provide different modes of cleansing action. As seen in

Figures 1 and 8-9, Martin teaches a suction cleansing device (10) including a rotating member (16) that is attached by being screwed in a threaded portion (106) which is opened and formed at an anterior wall of the vessel body and is rotatably provided in a covered (92) manner (c. 4, ll. 4-10) centering around a position deviated from the axial center of the vessel body (70) and air self-suction port (93) that introduces air into the device is formed at a position deviated from the rotating axis of the rotating member. Therefore it would have been obvious to one having ordinary skill in the art at the time the invention was made to provide the prior art device with the rotating member as taught by Martin since Martin states, at c. 4, ll. 4-10, and at c. 3, ll. 56-58, that the advantage of this design is that the rotating member allows the user to selectively adjust the water flow by turning the rotating member.

***Allowable Subject Matter***

14. Claim 4 is objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

15. The examiner notes that the preamble of claim 4 recites that the claim depends from claim 2 or 3, however claim 4, line 2 recites, “or said rotating member”. Antecedent basis for the rotating member is found in claim 3 only, not in claim 2, therefore claim 4 properly depends from claim 3.

16. The following is a statement of reasons for the indication of allowable subject matter: The closest prior art of record teach suction cleansing devices comprising a hollow vessel body with a converging profile and an air/liquid jetting port at the front end

of the body and a rotating member formed at a rear wall of the vessel body. The subject matter not found in the prior art is a suction cleansing device including a tank portion provided at a rear wall of the vessel body and covering the rear wall of the body in combination with the tank portion having an air self-suction port and an air introducing port secured at the tank portion.

***Response to Arguments***

17. Applicant's arguments with respect to claims 1-4 have been considered but are moot in view of the new ground(s) of rejection.

***Conclusion***

18. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

19. Borthkevitch et al (US 7,059,591 B2) teaches a gas-liquid ejector unit having a tank portion 20 having a tangential inlet for cavitation mixing of the gas and liquid prior to dispersal from the front portion of the unit.

20. Nomura (JP Appln. No. 08-196596) teaches a cleansing device having a vessel body 9 an air inlet port 10 inside an external cylinder 6 but does not teach a tank portion.

21. Japanese Published Utility Application No. 61-168784: teaches a device including a hollow portion 6, 2 and inlet 20 but does not teach a tank portion including ports.

22. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP

§ 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Ginger T. Chapman whose telephone number is (571)272-4934. The examiner can normally be reached on Monday through Friday 9:30 a.m. to 6:00 p.m..

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Tatyana Zalukaeva can be reached on (571) 272-1115. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Ginger T Chapman/  
Examiner, Art Unit 3761

7/14/08

/Tatyana Zalukaeva/  
Supervisory Patent Examiner, Art Unit 3761